

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GRAYDON M. FENSTEMAKER,	:	
Petitioner,	:	
v.	:	Civil Action No. 06-23J
DAVID GOOD, SUPERINTENDENT,	:	
S.C.I. CRESSON,	:	
Respondent	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for a Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on May 23, 2006, docket no. 8, recommending that the petition for a writ of habeas corpus be denied without prejudice as unexhausted, and that a certificate of appealability be denied.

The petitioner was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. No objections have been filed, and the time to do so has expired.

After review of the record of this matter together with the Report and Recommendation, and noting the absence of timely objections thereto, the following order is entered:

AND NOW, this 30th day of June, 2006, it is
ORDERED that the petitioner's petition for a writ of
habeas corpus is denied without prejudice to refiling after
exhaustion of state remedies. A certificate of appealability is
denied. The Report and Recommendation is adopted as the opinion
of the Court. The Clerk shall mark this matter closed.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

Graydon M. Fenstemaker
a/k/a Graydon M. Fenstermaker EA-8758
S.C.I. Cresson
P.O. Box A
Cresson, PA 16699-0001